

**TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD**

vs.

WILLIAM CLAYTON DRAKE
TX-1334549-L

[illegible]

DOCKETED COMPLAINT NO.
08-084

AGREED FINAL ORDER

On this the 21st day of August, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of William Clayton Drake (Respondent).

In order to conclude this matter William Clayton Drake neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent William Clayton Drake is a Texas state licensed real estate appraiser, holds license number TX-1334549-L, and has been licensed by the Board during all times material to the above-noted complaint case.
2. On or about April 23rd, 2008, Respondent appraised real property located at 2714 Orchard Creek Lane, Katy, Texas 77494 ("the property").
3. On or about January 7th, 2008, the Complainant, Carol Smith, filed a complaint with the Board, alleging various deficiencies and improprieties in connection with Respondent's appraisal of the property.
4. On or about February 25th, 2008 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to the complaint was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- a) Respondent failed to comply with the record keeping provision of the USPAP's Ethics Rule;
- b) Respondent violated USPAP's Competency Rule. He was not geographically competent to determine neighborhood characteristics and other salient market information since he works and resides some 150 miles away from the property;
- c) Respondent failed to adequately identify and report the correct site description, including zoning, and the improvements description for the property;
- d) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends;
- e) Respondent failed to provide a brief summary of his supporting rationale for his determination of the property's highest and best use;
- f) Respondent failed to provide support for his analysis and conclusions concerning site value, failed to verify, analyze and reconcile the cost new of improvements and accrued depreciations, and generally failed to employ recognized methods and techniques in his cost approach analysis;
- g) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and generally did not employ recognized methods and techniques in his sales comparison approach;
- h) Respondent failed to collect, verify, analyze and reconcile comparable rental data and comparable operating expenses for the property and generally failed to employ recognized methods and techniques in his income approach analysis;
- i) Respondent failed to analyze lease information for the property;
- j) Respondent failed to disclose and analyze a prior sale of the property which occurred less than twelve months prior to his appraisal report; and,
- k) Respondent's report for the property contains substantial errors of omission and commission as detailed above which resulted in a misleading appraisal report for the property which was not credible.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions); USPAP Competency Rule; USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-4(c)(i) & 2-2(b)(viii); 1-4(c)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(c); 1-5(a) & 2-2(b)(viii); 1-5(b) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Attend and complete a minimum, 15 classroom-hour course in Residential or Small Property Income Approach;
- c. Attend and complete a minimum, 15 classroom-hour course in Residential Report Writing; and,
- d. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure.

Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518.

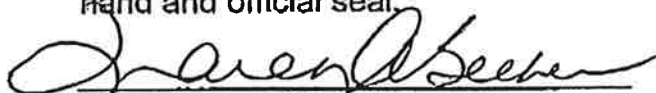
Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 21st day of August, 2009.


WILLIAM CLAYTON DRAKE


SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 21st day of August, 2009, by WILLIAM CLAYTON DRAKE, to certify which, witness my hand and official seal.


Notary Public Signature



Notary Public's Printed Name

Signed by the Commissioner this 21st day of August, 2009.


Loretta DeHay, Interim Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21st day of August, 2009.


Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board